

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shadman Khan	Team: Squad #12	CCRB Case #: 202004186	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/24/2020 7:30 AM	Location of Incident: [REDACTED]	Precinct: 69	18 Mo. SOL 9/24/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 06/10/2020 5:14 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 06/10/2020 5:14 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Feeley	02768	944550	INT CIS
2. DTS Terry Avent	01029	932280	E S U

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Avinash Patel	05322	940551	INT CIS
2. POM Jonathan Martinez	10299	953059	INT CIS
3. SSA Donald Abrams	00085	921890	E S U
4. DTS Michael Marotta	5446	947213	ESS 05
5. DTS James Seery	05483	931985	E S U

Officer(s)	Allegation	Investigator Recommendation
A.POM Brian Feeley	Abuse: Police Officer Brian Feeley entered § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]
B.POM Brian Feeley	Abuse: Police Officer Brian Feeley searched § 87(2)(b) [REDACTED] in Brooklyn	[REDACTED]
C.DTS Terry Avent	Force: Detective Terry Avent pointed his gun at § 87(2)(b) [REDACTED]	[REDACTED]

### Case Summary

On June 10, 2020, § 87(2)(b) filed this complaint through the CCRB online website complaint system on behalf of herself and § 87(2)(b).

On March 24, 2020, at approximately 7:30am, Police Officer Brian Feeley and Sgt. Avinash Patel from the 69<sup>th</sup> Precinct, Det. Terry Avent from the Emergency Services Unit, and multiple unidentified officers forcefully entered and searched § 87(2)(b)'s § 87(2)(b) Floor in Brooklyn pursuant to a warrant, breaking the first-floor door, second-floor apartment door, and interior room door to do so (**Allegation A - Abuse of Authority: Entry of Premises, § 87(2)(g)**) (**Allegation B - Abuse of Authority: Search of premises, § 87(2)(g)**). Once § 87(2)(b)'s door was open, Det. Avent entered the room and pointed a gun towards § 87(2)(b)'s head (**Allegation C - Force: Gun Pointed, § 87(2)(g)**).

Body-worn camera (BWC) footage of this incident was obtained on August 27, 2020. The BWC footage obtained does not capture any dispositive elements of the incident (**Board Review 01**).

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Brian Feeley entered § 87(2)(b) in Brooklyn.**

**Allegation (B) Abuse of Authority: Police Officer Brian Feeley searched § 87(2)(b) in Brooklyn.**

In § 87(2)(b)'s statement (**Board Review 02**), she stated that on March 24, 2020, at approximately 7:30am, officers entered her home, located at § 87(2)(b)'s § 87(2)(b) in Brooklyn, and, in the process, broke open the first-floor door, the second-floor apartment door, and her bedroom door. As soon as her bedroom door was open, Det. Avent entered the room and pointed a gun towards § 87(2)(b)'s head. Sgt. Patel later showed a warrant to § 87(2)(b) and wrote down his name and precinct number on a paper for § 87(2)(b) and § 87(2)(b). No occupants of the apartment were arrested as a result of the entry and search, and the officers left the incident location.

Search Warrant § 87(2)(b) (**Board Review 03**) was signed by § 87(2)(b) on § 87(2)(b). The warrant lists the requesting officer as PO Feeley and the supervising officer as Sgt. Patel, § 87(2)(b) in Brooklyn as the warrant associated location, and was obtained based on Confidential Informant information. Any information listed under the “Objectives” and “Reasons” headings were redacted by Internal Affairs, and no information was provided as to why the warrant was being executed.

According to NY CLS Criminal Procedure Law 690.50, officers may forcibly enter a premise as necessary during execution of a search warrant. The officer may also use as much physical force, other than deadly physical force, as is necessary to execute the warrant. The occupants of the location where the warrant is executed are to be shown the warrant if requested (**Board Review 04**).

PO Feeley entered and searched § 87(2)(b)'s § 87(2)(b) in order to execute a valid search warrant. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (C) Force: Detective Terry Avent pointed his gun at § 87(2)(b)**

As noted above, § 87(2)(b) alleged that an officer pointed a gun at her head when he entered the residence. In her statement to the CCRB, she stated that seconds after entering, the officer lowered his gun. § 87(2)(b) did not obtain the name of the officer who pointed his gun at her, but described the subject of this allegation as a Hispanic male in his mid- to late-thirties, 5'11" in height, with a large and muscular build.

The ESU report notes that three officers – Detective Terry Avent, Detective Michael Marotta, and Detective Matthew Vahey – were armed with MP5 submachine guns. One other officer on the entry team was armed with a pistol. An officer who was assigned to rear security and who would not have entered the residence was armed with a rifle (**Board Review 11**). The ESU report also notes that the warrant was a no-knock warrant.

CTS lists Det. Avent as a black male. CTS lists Det. Marotta is a white male, and EDMS lists Det. Vahey as a white male. § 87(2)(g)

In Det. Avent's statement to the CCRB (**Board Review 10**), he stated that on the date of incident, he and other members of ESU went to § 87(2)(b) § 87(2)(b) in Brooklyn to assist the 77<sup>th</sup> Precinct in the execution of a search warrant. Prior to the entry, the ESU officers had a meeting at the 69<sup>th</sup> Precinct with the officers who had requested the warrant. He did not recall any details of the information that was provided. The ESU officers then held a tactical briefing regarding each officer's responsibility during the entry. Det. Avent's role was MP5 Operator, and as such he was equipped with an MP5 submachine gun. In these search warrant executions, two officers are responsible for opening the front door. The MP5 operators and shield operators are then the first officers to enter. Upon entering, the officers determine whether there are civilians in each of the rooms, and do so by pointing their light at every location inside the room. Det. Avent did not have an independent recollection of the incident, but stated it was possible that during the process of clearing the rooms he pointed his gun toward a civilian. However, he stated that this action would have been inadvertent.

In Police Department v. Gliner, OATH Index 955/00 (**Board Review 12**), the court affirmed that an officer can "draw and point his firearm so long as he has a reasonable fear for his own or another's personal safety." It further affirmed that "the determination as to when that exercise of discretion rises to the level of misconduct must be made by assessing the reasonableness of the officer's actions in the totality of the surrounding circumstances."

All parties agree that the officers were in possession of a valid search warrant. As noted under the discussion of Allegation A, IAB redacted the warrant in such a manner that the exact nature of the search warrant and the items being sought is unknown. The ESU report did note that the warrant was a no-knock warrant, but it did not add any meaningful information about the nature of the warrant. § 87(2)(g)

In his statement to the CCRB, Det. Avent stated that he did not specifically recall any of the information that was provided to him about the warrant prior to the warrant execution. Further, he did not specifically recall pointing his gun at § 87(2)(b) though he believed that if he had performed this action, it would have been inadvertent and done only as part of his duty to determine whether there were individuals inside the rooms of the apartment. § 87(2)(g)

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 05**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 06**).
- PO Feeley has been a member of service for 13 years and has been a subject in 8 CCRB complaints and 14 allegations, none of which were substantiated. § 87(2)(g)
- Det. Avent has been a member of service for 17 years and has been a subject in 11 CCRB complaints and 26 allegations, none of which were substantiated. § 87(2)(g)

**Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation
- As of August 25, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (**Board Review 07**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**Board Review 08**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**Board Review 09**).

---

Squad No.: 12

Investigator:	<u>Shadman Khan</u> Signature	<u>Investigator Shadman Khan</u> Print Title & Name	<u>June 17, 2021</u> Date
---------------	----------------------------------	--	------------------------------

Squad Leader:	<u>Carlmais Johnson</u> Signature	<u>IM Carlmais Johnson</u> Print Title & Name	<u>June 21, 2021</u> Date
---------------	--------------------------------------	--	------------------------------

Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date
-----------	--------------------	-----------------------------	---------------